

REMARKS

Reconsideration and allowance of the subject application is solicited.

Responding to the Notice of Non-Compliant Amendment mailed January 9, 2008, we have corrected the identifier for claim 4 above, to state that it was “previously presented”. That is the only change herein to the Amendment we filed October 23, 2008.

We first thank the Examiner for the courtesies extended to applicants’ representative during the telephone conversation on August 6, 2007.

By the above amendments, we have amended the specification to add language regarding the particulars of the deposit of the E. coli microorganism DSM 6601. We have supplied here a Replacement Sheet for Figure 1, as requested by the Examiner. Claims 7 and 8 are revised to omit all language after the identifier “canceled”. No new matter is added by these amendments, and entry and consideration are requested.

By entry of this amendment, claims 1-6 will be pending.

In the July 24, 2007 Office Action, Figure 1 was objected to as including non-English words – that is, the non-translated Figure 1 submitted with the priority documents. Applicants had submitted a copy of Figure 1 with the German words translated into English with the Substitute Specification (clean version), with the application as filed on February 24, 2005. However, this copy of Figure 1 is apparently not in the Examiner’s files. We attach here another copy of the translated Figure 1, labeled “Replacement Sheet”. Withdrawal of this objection is requested.

Claims 7 and 8 are objected to for formalities, which are corrected by the above amendments.

Claim 1 is rejected under 35 U.S.C. §112, first paragraph. The Examiner has requested the deposit information for E. coli strain DSM 6601, which we have provided by amending the specification. The undersigned states that the deposits were made under the conditions of the Budapest Treaty, and all restrictions imposed by the depositor on the availability to the public of the deposited material will be irrevocably removed upon the granting of a patent. A copy of the deposit receipt is attached. Withdrawal of this objection is requested.

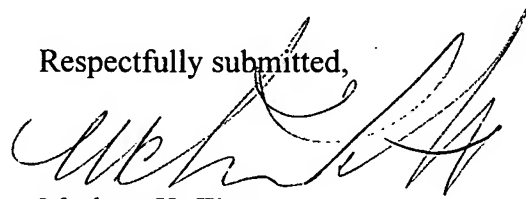
Claims 2-6 are rejected under 35 U.S.C. §112, second paragraph. The Examiner has objected to claim 2 on the basis the term “substantially” step d) renders the phrase indefinite. Following a telephone discussion with the Examiner on August 6, 2007, the Examiner informed applicants’ representative that this objection would be withdrawn and there is no need to address it further.

Lastly, we note that several of the reference citations on the PTO-1449 Form we submitted on June 22, 2005 have been lined-through. In particular, the Examiner returned our PTO-1449 Form and correctly initialed the citations as considered, except for three. The reason given is that these three references are in non-English. As we discussed with the Examiner over the telephone on August 6, when the references and PTO-1449 Form were originally submitted we supplied the International Search Report which cited these references, along with a Statement Regarding Relevance of Non-English References. Apparently, these documents did not reach the Examiner’s file or were overlooked. We provide here another copy of the International Search Report and the Statement, which, as discussed, should take care of the matter.

In summary, all of the Examiner’s outstanding rejections and objections have been addressed, and the application is believed to be in allowable form. Notice to that effect is earnestly solicited. No amendment made was related to the statutory requirements of patentability unless expressly stated herein, and no amendment made was for the purpose of narrowing the scope of any claim unless we argued above that such amendment was made to distinguish over a particular reference or combination of references.

If the Examiner has any questions or would like to make suggestions as to claim language, she is encouraged to contact Marlana K. Titus at (301) 977-7227.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Marlana K. Titus', written over a horizontal line.

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